

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
2001 MAR 13 A 8:13
MASTER CONSOLIDATED COMPLAINT
(ASBESTOS PERSONAL INJURY, LOSS OF CONSORTIUM)
(TRIAL BY JURY DEMANDED)

open
NOA
Conf. Letter
time
chart

Kelley

Robert J Basso
295-50-7852
21560 Willow Lane
Cleveland, OH 44136-1223

38735

CASE NO. 01-432539

JUDGE THROUGH

01-432588

and

John W Bettridge
285-30-8373
P.O. Box 34
Huron, OH 44839-0034

736

CASE NO.

540

JUDGE

and

David L Alvarado
Brenda M. Alvarado
288-32-0302
1410 Eastland Drive
Oregon, OH 43616-

737

CASE NO.

541

JUDGE

and

Jerry R Baker
Lois Baker
332-30-9620
4867 Lake Dawn Drive
Medina, OH 44256-9102

738

CASE NO.

542

JUDGE

and

and

Michael S Adams
Linda S. Adams
402-60-9325
2605 David Street
Flatwoods, KY 41139-

739
A

CASE NO.

543

JUDGE

and

Bernard R Allen
Bette R. Allen
403-46-2278
P.O. Box 405
Corbin, KY 40702-

740
A

CASE NO.

547

JUDGE

and

James H Bandy
404-62-4659
445 Spears Lane
Stanford, KY 40484-

741

CASE NO.

545

JUDGE

and

John Bankowsky
Alma M. Bankowsky
181-18-4331
430 1/2 Bryan Avenue
Baden, PA 15005-

742
A

CASE NO.

546

JUDGE

and

George H Beers
106-28-8912
43 Nancy Place
Cheektowaga, NY 14227-3537

743

CASE NO.

547

JUDGE

and

Grover L Behanna
251-48-0005
401 West Main Street
Monongahela, PA 15063-

744

CASE NO.

JUDGE

548

and

Lloyd E Bennett
406-16-3277
517 Henry Clay Blvd.
Lexington, KY 40505-

745

CASE NO.

JUDGE

549

and

Joe A Berda
090-20-4968
508 Turtle Street
Syracuse, NY 13209-

746

CASE NO.

JUDGE

550

and

Gary R Blum
Gretchen S. Blum
293-42-4873
2487 N. Horning Road
Shelby, OH 44875-

747

A

CASE NO.

JUDGE

551

and

James W Bond
Mary Bond
227-07-5677
Route 5, Box 451
Bluefield, WV 24701-

748

A

CASE NO.

JUDGE

552

and

Franklin Bonds
Chinese Bonds
394-38-8393
2717 Circle Drive
Flint, MI 48507-

749
A

CASE NO.

553

JUDGE

and

Charles L Boone
Leona Boone
163-22-5290
127 East Fayette Street
Connellsville, PA 15425-

750
A

CASE NO.

554

JUDGE

and

Donald G Boye
121-18-9385
86 Cayuga Road
Cheektowaga, NY 14225-3

751

CASE NO.

555

JUDGE

and

Roy B Bragg
233-76-1602
Rt. 1, Box 288
Green Sulphur Springs, WV 25966-

752

CASE NO.

556

JUDGE

and

B J Brock
400-48-1023
1380 North Highway
Corbin, KY 40701-

753

CASE NO.

557

JUDGE

and

John W Brown
Sharon A. Brown
129-32-2451
P.O. Box 24
Brasher Falls, NY 13613-

754
A

CASE NO.

JUDGE

558

and

Michael S Brown
Carmella Brown
067-48-0288
28 Phyllis Lane
Hastings, NY 13076-

755
A

CASE NO.

JUDGE

559

and

William C Bruening
Verity J. Bruening
274-36-1561
5347 White Road
Geneva, OH 44041-

756
A

CASE NO.

JUDGE

560

and

Frederick J Bryant
129-46-2252
442 Small Road
Brasher Falls, NY 13613-

757

CASE NO.

JUDGE

561

and

Thomas W Burchill
Mary Burchill
132-28-0218
922 Kinne Street
E. Syracuse, NY 13057-1731

758
A

CASE NO.

JUDGE

562

and

Morris W Burke
403-38-1264
1005 Summit Road
Ashland, KY 41102-

759

CASE NO.

JUDGE

563

and

Robert L Carner
227-28-7948
RR 1, Box 330
Pounding Mill, VA 24637-9716

760

CASE NO.

JUDGE

564

and

Duane R Carter
Elvira M. Carter
281-20-5897
2723 Brittany Oaks Blvd.
Hilliard, OH 43026-

761
A

CASE NO.

JUDGE

565

and

Carlyle F Chase
Virginia E. Chase
052-20-7978
7875 Kneeskern Road, Box 294
Bridgeport, NY 13030-

762
A

CASE NO.

JUDGE

566

and

Alexander Churchin
189-28-5434
3744 Watson Street
Baden, PA 15505-

763

CASE NO.

JUDGE

567

and

Hillman Coleman
286-32-3342
1374 West Blvd., Box 211
Cleveland, OH 44102-1778

764

CASE NO.

JUDGE

568

and

Ken A Courtney
Shirley Courtney
297-30-1369
2066 State Road
Rock Creek, OH 44084-

765
A

CASE NO.

569

JUDGE

and

David N Couser
Tanya A. Couser
271-52-2444
412 South Walnut
Fletcher, OH 45326-

766
A

CASE NO.

570

JUDGE

and

Robert P Couser
Vicky Couser
295-56-9479
3355 Creek Road
St. Paris, OH 43072-

767
A

CASE NO.

571

JUDGE

and

Millard J Crabtree
404-20-0002
4415 Blackwall
S. Charleston, WV 25309-

768

CASE NO.

572

JUDGE

and

Roy C Damron
Leah S. Damron
405-60-1467
Robinson Creek, Box 154
Robinson Creek, KY 41560-

769
A

CASE NO.

573

JUDGE

and

Thomas L Decker
Jacquelyne Decker
050-40-5579
20 Kent Boulevard
Salamanca, NY 14779-1411

770
A

CASE NO.

574

JUDGE

and

James P DeRose
276-28-2797
5158-A Liberty Lane
Willoughby, OH 44094-3374

771

CASE NO.

575

JUDGE

and

Stephen L Diehl
Wilma J. Diehl
195-34-5827
468 Hyndman
Hyndman, PA 15545-

772
A

CASE NO.

576

JUDGE

and

Hershel E Dillon
M. Larue Dillon
407-12-1321
1500 Hedden Road
Versailles, KY 40383-

773
A

CASE NO.

577

JUDGE

and

Kyle J Durocher
088-50-1436
141 Mohawk Street, #3
Cohoes, NY 12047-3014

774

CASE NO.

578

JUDGE

and

John R Ewing
Alleta J. Ewing
232-74-8485
2731 Mountain View Avenue
Bluefield, WV 24701-

775
A

CASE NO.

JUDGE

579

and

John Fabin
Mildred Fabin
195-18-6242
104 Eagle Pointe Drive
New Eagle, PA 15067-1447

776
A

CASE NO.

JUDGE

580

and

Garnet R Finley
Kathleen P. Finley
405-40-6390
715 North Main
Nicholsville, KY 40356-

777
A

CASE NO.

JUDGE

581

and

John R Ford
233-78-1097
RR 1, Box PH40
Hinton, WV 25951-

778

CASE NO.

JUDGE -

582

and

Garry W Fox
Genevieve Fox
400-60-2428
R 1, Box 448
Corbin, KY 40701-

779
A

CASE NO.

JUDGE

583

and

Samuel F Gallimore
Aileen L. Gallimore
282-14-8506
2205 Graham Road
Stow, OH 44224-

780
A

CASE NO.

JUDGE

584

and

Jimmy D Gibson
Freda L. Gibson
403-78-5538
699 Turkey Pen Road
Virgie, KY 41572-

781
A

CASE NO.

JUDGE

585

and

Ralph W Gladden
235-76-0030
102 Race Street
Ravenswood, WV 26164-

782

CASE NO.

JUDGE

586

and

Michael A Greco
Nancy Greco
057-28-4597
P.O. Box 207, DeFusto Road
Eagle Bay, NY 13331-

783
A

CASE NO.

JUDGE

587

and

Charles C Griffey
Lorena M. Griffey
278-24-7401
425 Chestnut Place
Galion, OH 44833-

784
A

CASE NO.

JUDGE

588

Plaintiffs

Vs.

A-BEST PRODUCTS COMPANY)
An Ohio Corporation)
c/o Carolyn Cappell)
Weston Hurd Fallon Paisley & Howley)
2500 Terminal Tower)
Cleveland, Ohio 44113)
)
A.P. GREEN INDUSTRIES, INC.)
A Delaware Corporation)
c/o Statutory Agent)
C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
PFIZER,, INC.)
c/o Statutory Agent)
C.T. Corporation System)
441 Vine Street, #3810)
Cincinnati, OH 45202)
)
UNITED STATES GYPSUM COMPANY)
A Delaware Corporation)
c/o C.T. Corporation System)
Statutory Agent)
441 Vine Street, #3810)
Cincinnati, OH 45202)
)
TURNER & NEWALL, PLC.)
P.O. Box 20)
Ashburton Road, West)
Trafford Park)
Manchester, England M17-1RA)
)
FOSTER WHEELER ENERGY)
CORPORATION)
A Delaware Corporation)
c/o U. S. Company)
Statutory Agent)
16 E. Broad Street)
Columbus, Ohio 43215)
)
HARBISON WALKER REFRACTORIES,)
INC.)
USX Steel Building)
600 Grant Street)
Pittsburgh, PA 15219)

DRESSER INDUSTRIES, INC.
Successor to Harbison Walker
Refractories Co.
c/o Statutory Agent
CSC-Lawyers Inc., Svc.
16 E. Broad Street
Columbus, Ohio 43215

METROPOLITAN LIFE INSURANCE
COMPANY a/k/a/ METROPOLITAN
INSURANCE COMPANY
One Madison Avenue
New York, NY 10010-3690

WESTINGHOUSE ELECTRIC
CORPORATION
A Pennsylvania Corporation
c/o C. T. Corporation System
1300 East Ninth Street, Suite 1010
Cleveland, Ohio 44114

RAPID-AMERICAN CORP.
in its own right and as successor in interest
to and liable for Philip Carey Corporation
c/o C.T. Corporation System, S.A.
111 8th Avenue, 13th Floor
New York, NY 10011

AMERICAN OPTICAL CORPORATION
c/o C. T. Corporation System, S.A.
2 Oliver Street
Boston, MA 02109

A.P. GREEN SERVICE, INC./BIGELOW
LIPTAK
Green Boulevard
Mexico, MO 65265

PNEUMO ABEX CORPORATION,
Successor in interest to Abex Corporation
American Brake Shoe Company and
American Brake Block
c/o Prentice Hall Corp.
50 East Broad Street
Columbus, OH 43215

ABB POWER T&D COMPANY, INC.)
a/k/a BBC BROWN BOVERI, INC.)
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)

BEAZER EAST, INC. (fka Koppers))
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street #1010)
Cleveland, OH 44114)

AMERICAN STANDARD, INC.)
Successor in Interest to Westinghouse Air)
Brake Co.)
A Delaware Corporation)
c/o C.T. Corporation System)
3810 Carew Tower)
Cincinnati, OH 45202)

EATON CORPORATION)
Successor in interest to Cutler-Hammer, Inc.)
An Ohio Corporation)
1111 Superior Avenue, S.E.)
Cleveland, OH 44114)

ERICSSON, INC.)
a/k/a Ericsson Radio Systems, Inc.)
Successor in interest to Continental Wire &)
Cable Company and Anaconda Wire & Cable)
Company)
A Delaware Corporation)
730 International Parkway)
Richardson, TX 75081)

G.W. BERKHEIMER)
1920 South State Avenue)
Indianapolis, IN 46203)

GENERAL MOTORS CORPORATION)
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)

GERBER PLUMBING FIXTURES
CORPORATION

A Division of Globe Valve
An Indiana Corporation
North Washington Street
Delphi, IN 49623

GOULD, INC.

A Delaware Corporation
c/o C.T. Corporation System
1635 Market Street, Suite 1120
Philadelphia, PA 19103

GREEN, TWEED & COMPANY

A Pennsylvania Corporation
Detweiler Road
Kulpsville, PA 19443

GRIFFIN WHEEL CO.

Division of Amsted Industries
A Delaware Corporation
c/o C.T. Corporation System
1300 East Ninth Street, Suite 1010
Cleveland, OH 44114

KERITE COMPANY

A Connecticut Corporation
49 Day Street
Seymour, CT 06483

LEXINGTON PRECISION CORPORATION)

f/k/a Blasuius Industries, Inc.
A Delaware Corporation
c/o C. T. Corporation System
1300 East Ninth Street, Suite 1010
Cleveland, OH 44114

MELRATH GASKET, INC.

In its own right and as successor in interest
to Melrath Gasket Company, Tannetics
and TNT Liquidating
A Pennsylvania Corporation
2901 West Hunting Park Avenue
P.O. Box 43099
Philadelphia, PA 19129-3099

MOBIL OIL CORPORATION)

c/o John F. Tully)

Exxon/Mobile Corp.)

Room 1729 D)

800 Bell Street)

Houston, TX 77002)

McCORD GASKET COMPANY)

c/o C.T. Corporation System)

1300 East Ninth Street #1010)

Cleveland, OH 44114)

NEW YORK AIR BRAKE CORPORATION)

A Delaware Corporation)

c/o C. T. Corporation System)

Carew Tower)

Cincinnati, OH 45202)

NIBCO, INC.)

An Indiana Corporation)

c/o C.T. Corporation System)

1300 East Ninth Street, Suite 1010)

Cleveland, OH 44114)

PARS MANUFACTURING COMPANY)

A Pennsylvania Corporation)

101 South Main Street)

Ambler, PA 19002)

PLASLOK CORPORATION)

A New York Corporation)

3155 Broadway)

Buffalo, NY 14227)

RAILROAD FRICTION PRODUCTS)

CORPORATION)

c/o C.T. Corporation)

225 Hillsborough Street)

Raleigh, NC 27603)

SB DECKING, INC.)
fka Selby, Battersy & Co.)
c/o Hecker, Brown, Sherry and Johnson)
1700 Two Logan Square)
18th and Arch Streets)
Philadelphia, PA 19103-2769)
)
SEPCO CORPORATION)
A California Corporation)
29822 Ivy Glenn)
Laguna Beach, CA 92656)
)
PLIBRICO COMPANY)
c/o Prentice Hall Corp. System)
50 E. Broad Street)
Columbus, OH 43215)
)
BUDD COMPANY and its division)
Continental-Diamond Fibre Co.)
A Pennsylvania Corporation)
One Red Lion Road)
Philadelphia, PA 19115)
)
UNIROYAL, INC.)
A New Jersey Corporation)
c/o Prentice Hall Corporation System)
50 E. Broad Street)
Columbus, OH 43215)
)
FEDERAL-MOGUL CORPORATION)
formerly d/b/a Vellumoid, Inc.)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)
)
ESSEX WIRE CORPORATION)
IWI Division)
A Michigan Corporation)
1601 Wall Street)
Fort Wayne, IN 46804)
)

WORTHINGTON CORPORATION)
Successor in interest to Studebaker-)
Worthington, Inc.)
c/o James W. Ferguson)
Halliburton Company)
4100 Clinton Drive)
Building 01-631)
Houston, TX 77020)

NOSROC CORPORATION)
A subsidiary of IU/International Corporation)
c/o C.T. Corporation System)
1635 Market Street)
Philadelphia, PA 19103)

USX CORPORATION, and its division)
American Steel & Wire Co.)
a/k/a Americable Div.)
c/o Prentice-Hall Corp. System)
50 E. Broad Street)
Columbus, OH 43215)

ALLIED GLOVE CORPORATION)
P.O. Box 2126)
Milwaukee, WI 53201)

OWENS-ILLINOIS)
c/o C.T. Corporation Systems, S.A.)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)

W. R. GRACE & COMPANY-CONN)
c/o Prentice Hall Corp. System)
Statutory Agent)
50 E. Broad Street)
Columbus, Ohio 43215)

GENERAL ELECTRIC CORPORATION)
In its own right and as successor to)
Alco Locomotive)
A Foreign Corporation)
c/o Statutory Agent)
C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)

A.W. CHESTERTON, INC.)
A Massachusetts Corporation)
Middlesex Industrial Park)
Stoneham, MA 02180)
)
ACF INDUSTRIES, INCORPORATED)
c/o CSC Lawyers Incorporating Service)
50 East Broad Street)
Columbus, Ohio 43215)
)
BLH, INC.)
fka Baldwin-Lima-Hamilton Corporation)
The Corporation Trust Co.)
Corporation Trust Center)
1209 Orange Street)
Wilmington, DE 19801)
)
VAPOR CORPORATION)
c/o C. T. Corporation System)
1636 Market Street)
Philadelphia, PA 19103)
)
VIAD CORPORATION)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
PULLMAN STANDARD, INC.)
c/o The Prentice-Hall Corp. System, Inc.)
100 Pine Street)
Harrisburg, PA 17108)
)
NORTH AMERICAN REFRACTORIES CO.)
An Ohio Corporation)
c/o C. T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44115)
)
THE GOODYEAR TIRE & RUBBER CO.)
c/o C.T. Corporation System)
3350 N. St. Paul Street)
Dallas, TX 75201)
)

FERODA AMERICA, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
AMCHEM PRODUCTS, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
C.E. THURSTON AND SONS, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
CERTAINTEED CORPORATION)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
NATIONAL SERVICE INDUSTRIES, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
SHOOK & FLETCHER INSULATION CO.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
UNION CARBID CORPORATION)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
DANA CORPORATION)
4500 Dorr Street)
Toledo, Ohio 43615)
)

QUIGLEY COMPANY, INC.)
235 East 42nd Street)
New York, NY 10017)
)
I.U. NORTH AMERICA, INC.)
Address Unknown)
)
ACANDS, INC.)
120 North Lime Street)
Lancaster, PA 17608-1548)
)
C.P. HALL COMPANY)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
CROWN CORK & SEAL)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
RED SEAL ELECTRIC)
3835 W. 150th Street)
Cleveland, Ohio 44111)
)
JOHN DOES 1-100)
Manufacturers, Sellers or)
Installers of Asbestos-Containing)
Products)
)
Defendants)

COUNT ONE

1. Plaintiffs worked at sites in and around Ohio as previously stated in the caption.
2. Defendants, excluding Metropolitan Life, all times relevant and pertinent hereto, were engaged in the business of mining, milling, manufacturing, fabricating, designing, formulating, producing, creating, making, constructing, assembling and/or rebuilding asbestos-containing products or components thereof; and/or selling, distributing, preparing, blending, packaging, labeling and/or otherwise participated in placing asbestos-containing products in the

stream of commerce to which plaintiff was exposed during his employment.

3. The real names and addresses of defendants John Does 1-100 manufacturers, sellers or installers of asbestos-containing products have not been determined, despite reasonable efforts of the plaintiffs to do so.

4. Defendants, acting through their servants, employees, agents and representatives, caused asbestos and asbestos-containing materials to be placed in the stream of interstate commerce.

5. During the course of plaintiffs' employment, they had been exposed to the defendant's asbestos and asbestos-containing materials, by virtue of installation and tear-out work, which exposure directly and proximately caused him to develop asbestos-related disease and to suffer other injury, including a greatly increased risk of developing mesothelioma, bronchogenic carcinoma, or other cancerous condition. Further, this increased cancer risk has caused plaintiffs to endure great mental anguish and will continue to cause such anguish in the future.

6. The illness and disability of the plaintiffs is the direct and proximate result of the negligence of the defendants in that they produced, sold or otherwise put into the stream of interstate commerce, asbestos and asbestos-containing materials, which the defendants knew or in the exercise of ordinary care, ought to have known were deleterious poisonous, and highly harmful to plaintiffs' health.

7. The illness and disability of the plaintiffs is the direct and proximate result of the negligence of the defendants in that even though the defendants knew or in the exercise of ordinary care, ought to have known that their asbestos and asbestos-containing materials were

deleterious, poisonous and highly harmful to plaintiffs' health, and that he would not know of such dangers to his health, the defendants nonetheless:

- (a) Failed to advise plaintiffs of the dangerous characteristics of their asbestos and asbestos-containing products;
- (b) Failed or omitted to provide plaintiffs with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances, if in truth there were any to protect him from being poisoned and disabled as he was, by exposure to such deleterious and harmful asbestos and asbestos-containing materials;
- (c) Failed and omitted to place any warnings on their containers of said asbestos and asbestos-containing materials to warn the handlers thereof of the dangers to health in coming into contact with said asbestos and asbestos-containing materials;
- (d) Failed and omitted to take reasonable precautions or exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and installing said asbestos and asbestos-containing materials.

8. The defendants impliedly warranted that said asbestos and asbestos-containing materials were of good and merchantable quality and fit for the intended use.

9. Plaintiffs were working in close proximity to the asbestos and asbestos-containing materials of the defendants, and his presence was known, or ought to have reasonably been anticipated by the defendants.

10. The implied warranty made by the defendants that their asbestos and asbestos-containing materials were of good and merchantable quality and fit for their particular intended use was breached in that certain harmful, poisonous and deleterious matter was given off into the atmosphere where plaintiffs carried out their duties working in and around asbestos and asbestos-containing materials.

11. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, plaintiffs developed an asbestos-related disease.

12. The defendants manufactured and sold products which were defective at the time they left the control of the defendants, and which proximately caused the illness of plaintiffs, whom defendants knew or should have known would be exposed to their products.

13. Defendants violated the requirements of §402(A) of the Restatement of Torts, 2d, as adopted by the Supreme Court of the State of Ohio, all of which proximately resulted in the illness of the plaintiffs.

14. As a direct and proximate result of the acts and omissions complained of above, plaintiff has experienced great pain and suffering of mind and body, and will endure future pain and suffering of mind and body.

trial by jury is hereby demanded to determine all issues.

KELLEY & FERRARO, LLP

By: Anthony Gallucci
MICHAEL V. KELLEY (0002679)
JOHN A. SIVINSKI (0036712)
ANTHONY GALLUCCI (0066665)
1300 East Ninth Street
1901 Bond Court Building
Cleveland, Ohio 44114
(216) 575-0777

Counsel for Plaintiffs

By: Michael H. Doran / AEO
MICHAEL H. DORAN (0067509)
Doran & Murphy LLP
1234 Delaware Avenue
Buffalo, NY 14209
(716) 884-2000

COUNT THREE

20. Plaintiffs herein reallege paragraphs 1 through 19 above as though fully rewritten herein.

21. Defendants, collectively and individually, manufactured, designed, selected, assembled, inspected, tested, maintained for sale, marketed, distributed, sold, supplied, delivered, and promoted asbestos-containing products which were generically similar and fungible in nature; and placed such material into the stream of interstate commerce.

22. Plaintiffs, through no fault of their own, may not be able to identify all of the asbestos-containing products or their manufacturers, marketers, sellers, distributors, or promoters due to the generic similarity and fungible nature of such products as produced and promoted by these defendants.

23. As a direct and proximate result of the defendants' activities, plaintiffs were exposed to asbestos-containing material and sustained the injuries and damages described above.

24. Defendants are jointly and severally liable to the plaintiffs for the injuries and damages sustained by plaintiffs, described above, by virtue of industry-wide liability, or enterprise liability.

25. (a) Alternatively, defendants represent a substantial share of the asbestos-containing product market where plaintiffs worked and were exposed to asbestos.

(b) Defendants manufactured, designed, selected, assembled, marketed, distributed, sold, supplied, delivered, and promoted asbestos-containing products of the kind and

nature to which plaintiffs was exposed during the period of his employment.

26. Defendants are severally liable to the plaintiffs based upon their pro-rata market share within the market described herein.

COUNT FOUR

27. Plaintiffs herein reallege paragraphs 1 through 26 above as though fully rewritten herein.

28. Plaintiffs have suffered a loss of consortium and have been deprived of the society, companionship, and assistance of their husbands.

COUNT FIVE

29. Plaintiffs herein reallege paragraphs 1 through 34 above as though fully rewritten herein.

30. In or about the year 1930, and at various times prior and subsequent thereto, up to and including the present time, defendant Metropolitan Life Insurance Company undertook and assumed a duty to provide the asbestos industry, the scientific community and company users of asbestos with information, inspections, instructions, supervision, recommendations, assistance, notices, reports, methods, findings, cautions, warnings, advice, designs, equipment, safeguards, guidance and services to properly, adequately and reasonably provide safe working conditions, all allegedly to preserve and protect the life, health and safety of employees exposed to asbestos, including plaintiffs and their co-workers, and particularly to protect them from the dangerous and defective properties of asbestos, asbestos products and compounds and/or other dangerous substances at or about the workplace.

31. Plaintiffs aver that various employers and their employees, including plaintiffs

and scientists and others similarly situated, were dependent upon the undertakings of the Defendant Metropolitan to preserve and protect the life, health and safety of employees at all times from the commencement of the said relationship between the asbestos industry and Defendant Metropolitan.

32. Defendant Metropolitan, by its active and passive negligence, failed to exercise by reason of its aforesaid undertakings and assumption of duty, thereby causing, creating or permitting dangerous conditions and exposure to dangerous and defective substances; and thereby failing to properly safeguard plaintiff and all others similarly situated.

33. As a result of the aforesaid negligence of the defendant Metropolitan, plaintiffs were injured.

WHEREFORE, plaintiffs demands judgment against the defendants jointly and severally in excess of Twenty-Five Thousand Dollars (\$25,000.00) and an amount for punitive damages, costs and attorney's fees and expenses in this action.

A trial by jury is hereby demanded to determine all issues.

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